

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at GREENEVILLE

ARMANDO CUELLAR)
)
v.) NO. 2: 09-CV-272
)
HAMBLEN COUNTY JAIL; LINDA)
BROOKS, Nurse; and ESCO)
JARNIGAN, Sheriff)

MEMORANDUM

This *pro se* prisoner's civil rights action filed under 42 U.S.C. § 1983, alleging unconstitutional jail conditions, was the subject of a prior order. In that December 1, 2009 order, citing *McGore v. Wrigglesworth*, 114 F.3d 601(6th Cir. 1997), the Court advised plaintiff that he had failed to comply with the dictates of 28 U. S. C. § 1915(b)(1), which required him to submit the entire civil filing fee of three hundred, fifty dollars (\$350) or file: (1) a motion to proceed *in forma pauperis*, (2) an affidavit listing his assets, and (3) a certified copy of his prison trust account statement reflecting the activity in the account for the six months preceding the filing of the complaint. Plaintiff was issued the following warning:

Therefore, unless within thirty days from the date on this order, plaintiff submits *either* the full filing fee *or* a properly-completed application to proceed without prepayment of fees, affidavit of indigency, and certified trust account statement, the Court will assume that he does not wish to proceed in this matter and, accordingly, will dismiss the case for failure to prosecute. Should this action be dismissed, it will not be reinstated, even if plaintiff later pays the fee or requests pauper status. [Doc. 2].

More than thirty days have passed since that order was entered. And even though the Court's correspondence containing the order has not been returned by the postal authorities, the Court has heard nothing from plaintiff. Given these facts, the Court will assume that plaintiff does not intend to proceed in this case and will **DISMISS** this action by separate order for his failure to prosecute his claims. *See* Rule 41(b) of the Federal Rules of Civil Procedure.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE